

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking into the Review
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Rulemaking 06-06-028
(Filed June 29, 2006)

**OPENING COMMENTS OF VERIZON REGARDING
PROPOSED DECISION OF COMMISSIONER CHONG
IMPLEMENTING CALIFORNIA ADVANCED SERVICES FUND**

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Verizon¹ respectfully submits these opening comments to the Proposed Decision of Commissioner Chong (PD) regarding implementation of the California Advanced Services Fund (CASF), dated November 20, 2007. Consistent with Commission rules, these comments primarily focus on factual, legal and technical errors in the PD.²

I. INTRODUCTION

Over the cautionary objections of several parties, the PD adopts a 3/1 megabits per second (Mbps) ratio of download and upload speeds as a “benchmark for evaluating applications”³ as well as a basis for defining “unserved” and “underserved” areas.⁴ Verizon appreciates the PD’s laudable goals of encouraging truly “advanced” technologies and attempting to recognize ever-increasing network speeds in the definition of “broadband” service. However, this new 3/1 standard fails to recognize the practical limitations of existing technology and broadband deployment, and fails to consider the wide range of consumer preferences for speed, price, and other factors. As such, adoption of this benchmark for applications will lead to unanticipated negative consequences such as increased project costs, higher consumer prices, lower demand, and misallocation of funds. Similarly, using this standard to define areas as unserved or underserved will not target grant applications to areas with the greatest need, and may have anticompetitive consequences. The result will

¹ The Verizon affiliates submitting these comments include Verizon California Inc. (U-1002-C), Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance (U-5732-C), MCI Communications Services, Inc, d/b/a Verizon Business Services (U-5378-C), MCI Metro Access Transmission Services, d/b/a Verizon Access Transmission Services (U-5253-C), TTI National, Inc., d/b/a Verizon Business Services (U-5403-C), Teleconnect Long Distance Services & Systems Co., d/b/a Telecom*USA (U-5152-C), and Verizon Select Services, Inc. (U-5494-C).

² Although parties generally do not introduce new facts in comments on a proposed decision, cf. Rule 14.3(c), such due process rules are generally more flexibly applied in quasi-legislative proceedings such as this. See, e.g., D.05-05-016. These comments include references to factual material not to supplement the record but to illustrate that the PD’s factual basis needs further development.

³ PD at 34.

⁴ “Unserved” areas are those not served by facilities meeting this standard, and “underserved” areas are those with only one facilities-based provider capable of providing these speeds to all customers. PD at 40.

be an inefficient, unfocused program that fails to satisfy state policies designed to close the digital divide.

Also, the PD's assertion that a 1 Mbps upload speed is required for effective telecommuting is at odds with common experience today. Instead of setting this specific benchmark, which is not supported by any apparent factual basis, the PD should consider speed as one of the criteria for review of applications, and use the soon-to-be-released report of the Governor's Broadband Task Force to identify unserved areas for broadband deployment. The Commission should also further explore an updated definition of "broadband" speeds through participation in ongoing FCC proceedings examining that issue, and through further comments in this proceeding.

In addition, the PD fails to address the potential that insufficient funds will be available to allocate \$100 million to the CASF in its first two years of operation. To remedy this, the Commission should allow for collection of CASF dollars beyond the first two years of the program, consistent with the multi-year window for applications and the phased payments for projects. Under no circumstances should the Commission increase the CHCF-B surcharge above the amounts set in the Phase I order in order to fund the CASF.

Finally, Verizon offers suggestions on the details of fund implementation proposed in the PD.

II. ADOPTION OF THE 3 MBPS/1MBPS BENCHMARK FOR EVALUATING APPLICATIONS AND TARGETING DEPLOYMENT IS UNJUSTIFIED AND UNWISE

A. The 3/1 Standard Fails to Consider Current Market Conditions

By redefining "adequate" broadband service based on this standard, the PD casts most of the state in the category of "unserved" or "underserved." According to the Commission's 2006 Broadband Report Update, 54% of broadband connections in California as of year-end 2005 were between 200 kilobits per second (kbps) and 2.5 Mbps in the fast direction,⁵ thus not meeting

⁵ Connecting California, California PUC Broadband Report Update, September 20, 2006 ("2006 Broadband Report Update"), at 5-6. This data is based on FCC Form 477 data, which includes all connections with speeds in one direction exceeding 200 kbps, and which reports each

the proposed 3/1 benchmark. Although speeds of all network providers have been increasing in recent years, the proposed 3/1 benchmark is outside of market norms, particularly the upload speed – the speed at which an end user can send information to the Internet (e.g., a sent email), as compared to the faster speed at which an end user can receive or download information from the Internet. Most residential broadband services today offer download speeds in the range of 1.5 to 6.0 Mbps and upload speeds in the range of 384 kbps to 1.5 Mbps.⁶

In addition, the proposed standard is not technology-neutral. Although Verizon's fiber-to-the-home FiOS internet service easily meets and surpasses this standard, with the two most popular residential variations offering speeds up to 5/2 and 15/2 Mbps, other technologies do not. In fact, only roughly one-third of Verizon's non-FiOS working lines in California could support an upload speed of 1 Mbps today. Verizon Wireless and Sprint both recently deployed EV-DO Revision A technology, enabling typical download speeds of 600 kbps to 1.4 Mbps, and typical upload speeds of 500 to 800 kbps.⁷ Multiple satellite providers offer two-way broadband services at download speeds up to 1.5 Mbps and upload speeds up to 256 kbps, which are comparable to the most widely purchased DSL offerings.⁸

connection based on the faster of the upload and download speed. See instructions at <http://www.fcc.gov/Forms/Form477/477instr.pdf>.

⁶ "California Economic Policy: Broadband for All?", Jed Kolko, Public Policy Institute of California, at 4 (July 2007), available at http://www.ppic.org/content/pubs/cep/EP_707JKEP.pdf.

⁷ See News Release, Verizon Wireless, *Verizon Wireless Launches Faster New Wireless Broadband Network* (Feb. 1, 2007); Verizon Wireless, *Facts About . . . Verizon Wireless Network* (May 1, 2007), http://news.vzw.com/pdf/Verizon_Wireless_Press_Kit.pdf; News Release, Sprint, *Sprint 'Powers Up' Largest Mobile Broadband Network with More Upgraded Markets, Faster Speeds, New Device and Integrated GPS Capabilities* (Jan. 30, 2007), http://www2.sprint.com/mr/news_dtl.do?id=15260.

⁸ WildBlue, *Packages and Pricing*, <http://www.wildblue.com/forYourHome/index.jsp> (last visited June 8, 2007) (WildBlue offers residential and small business service at \$49.95/mo. for 512 kbps/128 kbps, \$69.95/mo. for 1 Mbps/200 kbps, and \$79.95/mo. for 1.5 Mbps/256 kbps); HughesNet, *For Your Home: Pricing*, <http://go.gethughesnet.com/HUGHES/Rooms/DisplayPages/LayoutInitial?Container=com.webridge.entity.Entity%5B0ID%5B71A9F5B422ABCE4886D9492F66B5B589%5D%5D> (last visited June 8, 2007) (HughesNet offers residential services at \$59.99/mo. for 700 kbps/128 kbps, \$69.99/mo. for 1 Mbps/200 kbps, and \$79.99/mo. for 1.5 Mbps/200 kbps); StarBand by Spacenet, *New StarBand Nova Series*, <http://www.starband.com/services/> (StarBand offers residential and

As a result, this proposed benchmark does not correlate with any commonly shared understanding of the typical Internet user's application and content requirements, and does not reflect the speeds of many of the services popular with consumers. For example, a recent survey by the Iowa Utilities Board found that 65.7 percent of consumers subscribed to services with download speeds of 1-4.99 Mbps and 27.0 percent to services with download speeds of 200-512 kbps.⁹ Another 5.2 percent of Iowans subscribe to service with download speeds of 513-999 kbps and only 2.1 percent purchase service with download speeds above 5.0 Mbps.¹⁰ Indeed, many consumers choose to subscribe to lower-speed broadband services even when higher speed services are available because these services are often less expensive and offer sufficient bandwidth for these users to access popular content and applications over the Internet.

The proposed benchmark, while aspirational compared to current experience, would not necessarily encourage deployment of faster networks, but would instead simply label most existing broadband deployment as deficient. This assertion would create the misleading impression that broadband penetration in California is exceedingly low. Such an implication is at odds with the Commission's own conclusions in its 2006 Broadband Report Update that, for the first half of this decade, broadband penetration has been consistently higher in California than in the rest of the nation and, as of December 2005, 84% of California connections experience broadband speeds between 200 kbps and 10 Mbps.¹¹

small office/home office service at \$49.99/mo. for 512 kbps/128 kbps, \$129.99/mo. for 1.024 Mbps/256 kbps).

⁹ Iowa Utilities Board, "Assessing High-Speed Internet Access in the State of Iowa, Fifth Report," May 2006, at 21, cited in Comments of the Iowa Utilities Board, filed June 15, 2007, WC Docket No. 07-38, at 4, available at

http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519528785.

¹⁰ Id., Iowa Utilities Board comments.

¹¹ 2006 Broadband Report Update at 5.

B. Adoption of a Non-Market-Based Standard Will Interfere With Market Forces and Lead to Inefficient Funding Decisions

The Commission has previously recognized in its 2005 Broadband Report¹² that “use of any static definition [of broadband] is unwise over the long run.”¹³ The source relied upon for that assertion – the Committee on Broadband Last Mile Technology, an expert group assembled by the National Academy of Sciences – explained the significant effect on decision making that is likely to result from inappropriate definitions of broadband:

Too limited a definition, such as establishing too low a data transmission rate as the broadband threshold, could result in a mismatch between expectations and capabilities, while a definition that is unrealistic in terms of technological capabilities, costs, or consumer demand *could prompt inappropriate or poorly aimed policy interventions*.¹⁴

The Commission should heed this advice and refrain from establishing such a specific threshold to define acceptable projects or what constitutes unserved and underserved areas of California.

Not only does a substantial portion of existing broadband deployment fail to meet this proposed benchmark, but consumers may not desire these speeds for the prices at which they are likely to be available. Consumers are in the best position to gauge the value of different service offers available in the market, considering not just speed but also price and reliability. The fact is that many consumers choose lower-speed, lower-cost options, even when higher-speed alternatives are available. As stated by the United States Telecom Association (USTelecom) in its comments to the FCC regarding whether the FCC should change its current definition of broadband:

USTelecom members find that many of their customers choose lower-priced, entry-level DSL products. The Commission should not substitute its judgment of what is adequate speed for that of consumers. *Cutting off entry-level options will only discourage*

¹² Broadband Deployment in California, California PUC, May 5, 2005, at 3.

¹³ “Broadband: Bringing Home the Bits,” Committee on Broadband Last Mile Technology, National Academy of Sciences, 2002 (“Bits”), Chapter 5 at 6, <http://books.nap.edu/html/broadband/ch5.html>.

¹⁴ Bits, Chapter 2 at 3, <http://books.nap.edu/html/broadband/ch2.html>. (emphasis added)

broadband adoption. Given so much consumer choice and consumer demand for current offerings, it would be premature for the Commission to abandon the 200 Kbps definition of a high-speed service.¹⁵

This concern is echoed by CTIA – The Wireless Association®, which cautions the FCC that a higher definition of broadband service would “overlook the importance of existing 3G wireless technologies to bring high-speed access to underserved areas” and ignore the “significant consumer benefit at the lower end of the broadband speed continuum.”¹⁶ CTIA goes on to state:

Carrier investment in broadband technologies has brought wireless data – and in some cases the only broadband service – to parts of rural America that would otherwise not see investment. Services available from those carriers who employ 3G technologies like EDGE – that provide maximum downlink speeds of 384 kbps - are far and away better than dial-up and other alternatives due both to the speed of the offering, and its mobility. This level of service provides access to the overwhelming majority of broadband uses in the United States. *Raising the minimum speed for “broadband” service does nothing to help bring faster data access to underserved areas* and would fail to count customer use of some wireless broadband offerings.”¹⁷

Ignoring the impact of market forces could have serious unintended consequences on grant applications. For example, defining the large portions of California failing to meet this standard as unserved or underserved would provide little focus for potential applicants. In fact, by stating a preference for a higher-speed, more costly network, a 3/1 standard will risk diverting limited funds from areas with no broadband at all to areas with existing lower speed broadband. Low customer density and high build costs make some rural areas of California uneconomic to serve. Capital investment per customer is extremely high, and long loops make it very costly to provide these customers high bandwidth broadband. However, these factors, combined with the PD’s proposed price and

¹⁵ Comments of the United States Telecom Association, filed June 15, 2007, WC Docket No. 07-38, at 15, (emphasis added) available at http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519529274.

¹⁶ Comments of CTIA – The Wireless Association®, filed June 15, 2007, WC Docket No. 07-38, at 14, (emphasis added) available at http://gulfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519529364.

¹⁷ Id. (emphasis added).

coverage criteria,¹⁸ make it unlikely that projects to serve rural customers will be prioritized for funding. Instead, funding would be diverted to upgrading suburban areas that fail to meet the 3/1 standard, since these upgrades will be capable of serving more potential subscribers at a price per Mbps that is significantly lower.

The 3/1 standard for defining unserved areas may also distort the market in particular geographic areas. Many parts of California are served by multiple wireline and wireless providers offering broadband at upload speeds less than 1Mbps. Some if not all of these carriers likely offer several speed and price options to meet varied customer demands. Nonetheless, under the PD's definition, such an area would qualify as either "unserved" or "underserved." If one provider applies for and receives funding to upgrade its network to 1Mbps upload speeds, the CASF will subsidize this market participant to the detriment of competitors, notwithstanding the fact that the market was already providing customers with the broadband solutions they sought.

Such results would not be best suited to fulfilling this Commission's stated goal of encouraging "new technologies and the *equitable* provision of services in a way that *efficiently* meets consumer need and encourages the *ubiquitous* availability of a wide choice of state-of-the-art services."¹⁹ Nor would such results heed the Commission's own admonition in the Phase I decision that "solutions to the digital divide [are] *best driven by market forces* within the telecommunication and internet industry. . . ."²⁰

C. The Commission Should Conduct Further Inquiry and Analysis Before Adopting Any Specific Speed Benchmark

Finally, the factual basis for this proposed standard is lacking. The PD's firm conclusion that a minimum upload speed of 1 Mbps is "necessary for effective telecommuting"²¹ is puzzling.²² While information cited in the PD supports today's common experience that "[b]roadband access is particularly useful for telecommuting because cable modem lines and DSL are at least five

¹⁸ PD at 29.

¹⁹ Public Utilities Code § 709(c)(emphasis added).

²⁰ D.07-09-020 at 20 (emphasis added).

²¹ PD at 34.

²² See, e.g., PD at 35, notes 43 through 46.

times faster than typical telephone modem lines and so high-speed Internet improves the productivity of computer use from home,”²³ other information cited in the PD suggests that customers cannot distinguish between 1.5 and 4.0 Mbps service and that, “as we increase the speed, the real impact of the speed on what we do with it is marginal.”²⁴

Indeed, many Internet users telecommute today at far lower speeds. Agencies of the federal government have had a telecommuting program in place for several years²⁵ and, for example, the U.S. Patent and Trademark Office allows employees to telecommute at home up to four days per week and reimburses the cost of high-speed Internet access.²⁶ Typical telecommuting activities can easily take place at more widely available speeds.²⁷ In short, the current record regarding this proposed speed benchmark is insufficient for sound policy-making and does not meet the legally required threshold for acceptable Commission decision making.²⁸

As mentioned above, the FCC is already considering comments filed last summer on its current definition of broadband²⁹ and, concurrent with the release of the PD, the Federal-State Joint Board on Universal Service has recommended that the FCC seek further comment on the appropriate level of broadband service for which universal service support would be eligible.³⁰ Rather than establishing

²³ Broadband Access, Telecommuting and the Urban-Rural Digital Divide”, Song, Orazem and Singh February 2006 working paper, Iowa State University Department of Economics, at 7 (cited in PD at 34, note 42).

²⁴ See “Need for Speed...How Real? by Om Malik, cited in PD at 34, note 42.

²⁵ See, e.g., Department Of Transportation and Related Agencies Appropriations, 2001, Pub. L. No. 106-346, sect. 359, 114 Stat. 1356, 1356A-36 (Oct. 23, 2000) (requiring executive agencies to establish policies under which eligible employees “may participate in telecommuting to the maximum extent possible without diminished employee performance.”)

²⁶ http://www.gao.gov/decisions/appro/308044.htm#_ftn1.

²⁷ See, e.g., “The economic effects of broadband: an Australian perspective”, Department of Communications, Information Technology and the Arts, May 2007, at 19-20, see also Table 4 at page 26; available at <http://www.oecd.org/dataoecd/29/9/38698062.pdf>.

²⁸ Pub. Util. Code § 1705 (separately stated findings of fact and conclusions of law required on all issues material to the decision).

²⁹ Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, GN Docket No. 07-45, Notice of Inquiry, FCC 07-21 released Apr. 16, 2007.

³⁰ In the Matter of High-Cost Universal Service Support, Federal-State Board on Universal Service, WC Docket No. 05-337, Recommended Decision (rel. November 20, 2007), ¶ 72. This

a bright line speed threshold now, the Commission should consider speed as one of the factors in evaluating applications. It should not establish the 3/1 standard to benchmark applications, nor should it use that standard to define unserved and underserved areas of the state.

This approach would not hinder implementation of the CASF or prioritization of grant applications based on speed. It would, however, provide a more solid factual basis to develop sound policy in this critical area, as urged by several parties³¹ in response to the September 12, 2007 ruling.³² Indeed, this Commission has likewise urged the FCC to develop a firm factual basis for policy-setting in its inquiry and evaluation of broadband standards for reporting.³³ This sound advice applies here as well.

III. THE PD SHOULD MORE REALISTICALLY CONSIDER THE LEVEL OF AVAILABLE FUNDS, BUT SHOULD NOT CONDONE FUTURE INCREASES TO THE SURCHARGE

The PD acknowledges, but fails to address, Verizon's concern that the reduction in the fund surcharge from 1.3% to 0.5% may not leave any surplus for distribution to the CASF.³⁴ Rather, the PD claims that the \$100 million allocated to the CASF accounts for the difference in claims resulting from the modifications adopted in D.07-09-020.³⁵ Verizon continues to believe that this assumption is

Recommended Decision is only a proposal at this point and the FCC is likely to take comments before considering adopting any part of it.

³¹ Reply Comments of Sprint Nextel, October 3, 2007, at 7-8 (Commission should identify possible pitfalls of CASF and identify and evaluate alternative approaches); Reply Comments of the Division of Ratepayer Advocates, filed October 3, 2007, at 8 (many unanswered questions, including defining unserved areas, need to be answered before implementing a CASF); Reply Comments of The Utility Reform Network, filed October 3, 2007, at 3 (urging the Commission to engage in "significantly more fact-finding and analysis" on issues including "existing broadband deployment [and] the data speeds that a broadband project must support" before creating a CASF).

³² Assigned Commissioner's Ruling of Commissioner Chong on Phase II Issues Relating to the California Advanced Services Fund, dated September 12, 2007.

³³ Reply Comments of the California Public Utilities Commission and of the People of the State of California on the Development of Broadband Data, FCC WC Docket No. 07-38, filed July 16, 2007, at 2 (recommending that, in developing public policies to bridge the digital divide, "the FCC should use its unique position to foster the development of a solid factual foundation regarding all aspects of broadband service – broadband take rates, speeds, prices, etc. – upon which good public policy must be built.").

³⁴ PD at 22.

³⁵ PD at 23, note 39.

erroneous, as set forth below. In any event, but the Commission should *not* rely on the possibility of future increases to the CHCF-B surcharge to fund the CASF.

Applying the newly-adopted 0.5% surcharge to the most recent projected billing base of \$21,791,772,242³⁶ yields \$108.959 million in available annual surcharge funds, or \$218 million over the two year period. After deducting \$100 million for CASF funding, \$118 million would remain to support the B-Fund (\$59 million in 2008 and \$59 million in 2009). However, as shown in Verizon's opening comments on this issue, B-fund claims in 2008 are estimated to be \$230 million, based on Appendix Table 1 from D.07-09-020.³⁷ Leaving only half of the 0.5% surcharge revenue for CHCF-B claims will exhaust the fund balance by the third quarter 2008.³⁸ Accordingly, the PD's proposed method of funding the \$100 million CASF over a two year period beginning January 1, 2008³⁹ will generate insufficient funds and should be changed.

Most important, the Commission should adhere to its goal of reducing consumer surcharge burdens "without undue delay"⁴⁰ and, therefore, should not allow any future actions in this proceeding to increase the surcharge levels above those adopted in Phase I. Rather than increasing the surcharge to fund both the B-Fund and CASF, the Commission should allow for collection of CASF funds over three or four years. Payments from the fund are allocated over the project completion time period, and awards are permitted through 2010, so immediate access to the full amount of CASF funding would be not be required.

As the PD suggests, the existing CHCF-B surcharge and billing line item should be used to collect CASF funds.⁴¹ The Commission should not create yet

³⁶ See Resolution T-17078 at 6.

³⁷ Opening Comments of Verizon in Response to ACR on Issues Relating to the California Advanced Services Fund, filed September 26, 2007, Exhibit 2. The six months claims of \$136,278 million for January through June and \$93,737 million for July through December total \$230,015 million.

³⁸ This is because the projected available fund balance as shown in T-17078 of \$192.8 million starting July 1, 2007, will have declined to approximately \$112 million by January 1, 2008. Adding \$27 million in new surcharge funds collected for January through June will just cover projected six months claims of \$136.3 million. However, starting in July 2008, the monthly claims per D.07-09-020 of \$15.6 million will be far in excess of the \$4.5 million surcharge revenue.

³⁹ FOF 17.

⁴⁰ D.07-09-020, at 75-76.

⁴¹ PD at 51, COL 6.

another separate surcharge⁴² applicable to telephone bills in this competitive era, as surcharges increase carrier expense as well as competitive disadvantage, and risk customer confusion and annoyance.

IV. FUND ADMINISTRATION ISSUES

This Commission should work closely with the FCC in reviewing the several universal service reform proposals pending on the federal level. The Commission should also monitor the several congressional proposals to provide additional federal funding for broadband deployment. Developments at the FCC and in Congress could significantly inform fund design and administration decisions in this proceeding.

A. Schedule for Processing Applications

The PD proposes to begin accepting applications June 2, 2008, and allows a counter bid matching the original one 45 days later.⁴³ Should the Commission decide to allow counter bids, it should also allow the original applicant whose bid is countered to submit a limited response. This will have the beneficial effects of allowing all applicants the opportunity to respond to others, leveling the field, and improving the information presented to the Commission. A more limited period of time, say 20 days, should be sufficient.

The PD appears to allow subsequent applications to be submitted at any time,⁴⁴ but this could lead to confusion. A schedule should be set, or this provision clarified.

B. Requirements to Support Applications

Several proposed requirements are unnecessary or unduly burdensome. First, applicants should not be required to map their entire service area by CBG,⁴⁵ as that level of granular data will have no relevance to the application at issue. Carriers who do not already have this information will face considerable unnecessary expense to prepare it. Also, applicants should not be required to submit a “verifiable showing” that an area is served or unserved. They may not

⁴² PD at 26 (Commission may create a separate surcharge to extend CASF).

⁴³ PD at 25.

⁴⁴ PD at 25 (applications filed within each month shall be treated as simultaneous).

⁴⁵ PD at 28, provision (1).

have detailed or complete knowledge of competitors' facilities, products or speeds in a particular area, and should not be required to generate such information. The Broadband Taskforce is currently mapping the state to determine areas where broadband is unavailable, and that information should be used instead.

The PD proposes to hold workshops to finalize criteria at least 45 days prior to the application filing deadline.⁴⁶ This time period is insufficient to allow potential applicants to determine whether they will meet the final adopted criteria. Sixty or ninety days would be preferable.

C. "Telephone Corporation" Eligibility Requirements

Verizon has no comments at this time, but may comment in reply.

D. Requirement to Offer Residential Voice Service

This requirement is essential to fund such projects under the CHCF-B but should be clarified to require E911 capability as a voice component..

E. Broadband "Project" Definition

The PD proposes to define projects in terms of a group of contiguous CBGs,⁴⁷ which is fine, but must also recognize that only portions of some CBGs may be included, as networks do not match CBG boundaries.

F. Minimum Broadband Speed Eligibility Standards

As discussed at length in Part II above, speeds should be specified in the application and used as a guideline for review, but the minimum 3/1 speed benchmark should not be adopted for the reasons set forth above.

G. Timing Requirements for Build-Out

Verizon has no comments at this time, but may comment in reply.

H. Matching Fund Requirements

Verizon has no comments at this time, but may comment in reply.

I. Geographical Areas

Several unnecessarily burdensome requirements are adopted without responding to or addressing parties' comments at all. As stated above in Part II,

⁴⁶ PD at 29.

⁴⁷ PD at 33.

the PD's current definition of unserved and underserved is extremely problematic. Also, applicants should not be required to assess areas as to whether they are served or unserved. This is a function best performed by a third party such as the Broadband Task Force.

In particular, the PD proposes to not restrict CASF funding to designated "high cost" areas on the ground that those designations are outdated.⁴⁸ Phase II of this proceeding will update these areas, and those designations should play a role here. Failure to target CASF funds appropriately will have adverse consequences as discussed above.

J. Commitment to Serve

Verizon concurs with the requirement that an applicant commit to serve customers for a minimum period, but believes that the "requirement" for carriers to "honor voluntary pricing commitments" as a condition of receiving funds is unworkable.⁴⁹ The Commission does not regulate broadband pricing, so the manner in which it would "require" a carrier to honor its commitment is unclear; would carriers be required to refund grants? How would the amount of refund be determined? Moreover, any commitment to set prices for a five-year period in a volatile and competitive market such as broadband would necessarily be subject to change to reflect market conditions. Carriers committing to deployment should be allowed to operate under market conditions to the maximum extent possible, consistent with the Commission's own acknowledgment in the Phase I order.⁵⁰

K. Cost Categories Eligible for Funding

Verizon concurs that CASF should be limited to capital costs.

L. Financial Qualifications

Verizon has no comments at this time, but may comment in reply.

M. Disbursement of Funds

⁴⁸ PD at 40. Finding of Fact 29 also states that CASF eligibility will not be restricted to high cost areas, but Findings of Fact 15 and 16 state the opposite – that funding will be used to increase deployment in "high cost areas". This confusion should be clarified.

⁴⁹ PD at 41.

⁵⁰ See D.07-09-020 at 31 (preference to "minimize interference with competitive market forces in meeting universal service goals"); 56 ("solutions to digital divide [are] best driven by market forces").

As mentioned above, the Commission should factor the proposed fund disbursement schedule into its assessment of available funds.

N. Requirements for Audit

Verizon has no comments at this time, but may comment in reply.

V. CONCLUSION

Verizon urges the Commission to modify the PD to eliminate the 3/1 standard as a benchmark for reviewing applications and as a standard for defining areas to be targeted, and to conduct further factual inquiry on currently available speeds as well as customer preferences. The Commission should also further assess the availability of funds for the CASF, but should not increase CHCF-B surcharges above already approved levels to fund this program.

December 10, 2007

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 112 Lakeview Canyon Road, CA501LB, Thousand Oaks, California 91362; I have this day served a copy of the foregoing, **OPENING COMMENTS OF VERIZON REGARDING PROPOSED DECISION OF COMMISSIONER CHONG IMPLEMENTING CALIFORNIA ADVANCED SERVICES FUND** by electronic mail to those who have provided an e-mail address and by U.S. Mail to those who have not, on the service list.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 10TH day of December, 2007 at Thousand Oaks, California.

/s/
JACQUE LOPEZ

Attachment 1

Proposed Changes to Findings of Fact and Conclusions of Law

Attachment 1 - Proposed Changes to Findings of Fact and Conclusions of Law

Findings of Fact

8. Redesignating half of the available B-Fund surcharge contributions in excess of contributions needed to pay B-Fund claims, for the CASF is the best way to fund the CASF as an initial matter. Carriers may use the same surcharge line on customer bills for both the CHCF-B and the CASF. In the future, the Commission could decide to establish a separate CASF surcharge but we find it is not necessary at this time as the CHCF-B mechanism is available and works well.

11. Providing funding pursuant to Pub. Util. Code §§ 701 and 709 for deployment of broadband facilities in unserved and underserved ~~high-cost~~ areas of California is necessary to meet the objectives of universal service.

17. The initial allocation to the California Advanced Services Fund will be \$100 million ~~collected~~ redesignated from excess B-Fund contributions over a ~~two~~ three or four year period beginning on January 1, 2008.

19. Commission staff will hold a workshop to develop the application process, and final evaluation criteria, with the final evaluation criteria to be publicly noticed at least ~~4560~~ days before the first CASF applications are due.

22. Applicants shall be required to submit the following data to the Commission, for each proposed broadband project, subject to appropriate confidentiality provisions:

A. Description of applicant's current broadband infrastructure and map of current service area by census block group for the CBGs covered by the broadband project;

B. Description of proposed broadband project plan for which CASF funding is being requested, including download and upload speed capabilities of proposed facilities. ~~Minimum speed standards shall be 3 MBPS download and 1 MBPS upload.~~

C. Geographic locations by census block group where broadband facilities will be deployed. Boundaries of the specific area to be served by the project, with map by census block group, ~~along with a verifiable showing that the area is unserved or underserved;~~

24. For purposes of awards of California Advanced Services Fund support, we expand the definition of qualifying "basic service" to include any form of voice-grade service, including that offered through a wireless or interconnected VoIP service that is E911 capable.

26. ~~3-MBPS/1MBPS~~ Combined upload and download speed will be used in standard is adopted as the benchmark for evaluating applications.

32. Evaluation of requests will consider the prices at which applicants propose to offer broadband service. ~~and award will be conditioned on the applicant honoring voluntary pricing commitments.~~

Conclusions of Law

10. The definition of qualifying “basic service” for the purposes of the California Advanced Services Fund is modified to include any form of voice-grade service, including that offered through a wireless or interconnected VoIP service.



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